

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROAN NOBLE,	§
	§ No. 510, 2009
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0603009243
	§
Plaintiff Below-	§
Appellee.	§

Submitted: October 27, 2009

Decided: November 2, 2009

Before **HOLLAND, BERGER** and **JACOBS**, Justices

**ORDER**

This 2<sup>nd</sup> day of November 2009, upon consideration of the appellant's opening brief and the appellee's motion to remand, it appears to the Court that:

(1) The defendant-appellant, Roan Noble, filed an appeal from the Superior Court's August 7, 2009 order denying his motion for Level V credit time. The plaintiff-appellee, the State of Delaware, has filed a motion to remand this matter to the Superior Court for entry of an order granting Noble the credit time he has requested. We conclude that the State's motion should

be granted and hereby remand this matter to the Superior Court for further proceedings in accordance herewith.<sup>1</sup>

(2) The record reflects that, in April 2006, the grand jury indicted Noble on charges of Possession of a Deadly Weapon By a Person Prohibited, Carrying a Concealed Deadly Weapon, Falsely Reporting an Incident, Possession of a Firearm By a Person Prohibited, and Tampering With Physical Evidence. In July 2006, Noble failed to appear for final case review and the Superior Court issued a capias for his arrest. In December 2006, Noble was ordered held as a fugitive from the State of Delaware by the Court of Common Pleas of Delaware County, Pennsylvania.

(3) Noble was returned to the State of Delaware in May 2007. On July 24, 2007, the day of trial, Noble pleaded guilty to two of the original charges---Possession of a Firearm By a Person Prohibited and Tampering With Physical Evidence.<sup>2</sup> He was sentenced on those convictions to a total of 7 years of Level V imprisonment, to be suspended after 4 years for 2 years at Level IV, in turn to be suspended after 6 months for 1 year at Level III probation. Noble did not file a direct appeal.

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<sup>1</sup> The State's motion to affirm, filed on September 21, 2009, is hereby denied.

<sup>2</sup> The record reflects that Noble also pleaded guilty to Resisting Arrest in connection with a separate indictment in Superior Court Criminal Identification Number 0606010309.

(4) Since November 2007, Noble has filed approximately 8 motions requesting credit for time served in Pennsylvania while awaiting extradition to Delaware.<sup>3</sup> In his latest motion, Noble requested the Superior Court to credit him with an additional 52 days of Level V imprisonment.<sup>4</sup> In its order denying Noble's motion, the Superior Court stated that he had "failed to supply the necessary information to warrant . . . any additional credit time."

(5) On October 5, 2009, the Court directed the State to obtain Noble's Pennsylvania criminal record to determine if he had already received Level V credit for the time he spent in a Pennsylvania facility awaiting extradition by the State of Delaware. On October 27, 2009, the State reported that it had obtained the records from the George W. Hill Correctional Facility in Thornton, Pennsylvania. Those records reflect that Noble was held at the facility from March 16, 2007 until May 11, 2007, solely for the purpose of awaiting extradition to Delaware and that no credit was received against any Pennsylvania sentence. As such, the State now concedes that Noble should receive credit for that time against his Level V Delaware sentence.

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<sup>3</sup> In December 2008, the Superior Court recalculated Noble's sentence to give him credit for an additional 3 days of Level V time.

<sup>4</sup> Del. Code Ann. tit. 11, § 3901(c); *Gamble v. State*, 728 A.2d 1171, 1172 (Del. 1999) (an inmate must be given credit for any period of actual incarceration when calculating the amount of Level V time he has served on a Level V sentence).

NOW, THEREFORE, IT IS ORDERED that the State of Delaware's motion to remand is GRANTED. This matter is hereby remanded to the Superior Court for further proceedings in accordance with this Order. Jurisdiction is not retained.

BY THE COURT:

/s/ Carolyn Berger  
Justice